



Broward County Chiefs of Police Association, Inc.

## ***Legal Update***

### **Legal Advisor Committee**

Bradley H. Weissman  
Melissa Zelniker-Presser  
Major Paul Robert  
Jeanette Camacho  
Gregg Rossman  
954-828-5622

### **JUNE 2018 LEGISLATIVE UPDATE**

#### **NEW LAWS**

##### **MSDHS Public Safety Act; [2018-3]**

**Effective Date: Upon becoming law, except where expressly provided otherwise in the Act**

The Bill amends or creates the following statutory provisions:

- Amends F.S. 16.555, by authorizing awarding grants through crime Stoppers Trust Fund for student crime watch programs.
- Amends F.S. 20.15, by establishing the Office of Safe Schools within the Dept. of Education.
- Amends F.S. 30.15, by providing that each sheriff may establish a Coach Aaron Feis Guardian Program which:
  - Authorizes the Sheriff to appoint certain volunteer school employees as school guardians;
    - Individuals who exclusively perform classroom duties are excluded as guardians unless the teachers involved in the Junior Reserve Officers, Training Corp program, a current servicemember, or a current or former law enforcement officer.
  - All guardians must:
    - hold a valid concealed weapon license;
    - complete 132 hour comprehensive firearm safety and proficiency training which must include 80 hours of firearm instruction, 16 hours of precision pistol instruction, 8 hours of discretionary shooting instruction, 8 hours of active shooter scenarios, 8 hours of defensive tactics, and 12 hours of legal issues training.
    - Pass a psychological evaluation;
    - Submit to and pass an initial drug screening and subsequent random drug screens;
    - Successfully complete ongoing training, weapon inspection, and firearm qualification on, at least an annual basis; and
    - Successfully complete, at least, 12 hours of a certified nationally recognized diversity training program.
- Amends F.S. 121.091, by authorizing certain retired law enforcement officers to be reemployed as school resource officers after meeting specified termination requirements.
  - Authorizing such retired law enforcement officers to receive compensation and retirement benefits after a specified period.
  - Providing that such retired law enforcement officers may not renew membership in the Florida Retirement System, except as otherwise provided.

- Amends F.S. 394.463, by permitting a law enforcement officer to use reasonable force as is necessary to gain entry to the premises and take custody of the person who is subject of an ex parte involuntary examination order. Additionally, the Bill requires, when practicable, that the law enforcement officer who is assigned to execute such orders have crisis intervention training.
  - Authorizes a law enforcement officer taking custody of an individual who is subject to an ex parte involuntary examination order to seize and hold firearms and ammunition if the individual poses a potential danger to themselves or others and who has made a credible threat against another person.
  - Authorizes a law enforcement officer to seek the voluntary surrender of firearms and ammunition kept in the residence if the law enforcement officer takes custody of the person at the person's residence and certain criteria are met.
  - Authorizes such law enforcement officers to petition an appropriate court for a risk protection order under certain circumstances. (See F.S. 790.401 below).
  - Requiring that firearms and ammunitions seized or voluntarily surrendered be returned within 24 hours, upon the subject demonstrating that he/she is no longer subject to involuntary examination and has been released or discharged from any inpatient or outpatient treated provided or ordered by a court.
  - Requires law enforcement agencies to develop policies and procedures relating to seizure, storage, and return of firearms and ammunition seized pursuant to this provision.
- Amends F.S. 394.495, by requiring the Department of Children and Families to contract for community action treatment teams throughout the State with the managing entities.
  - Specifying requirements for community action treatment teams.
  - Subject to legislative appropriation, requiring the Department to contract for additional teams to ensure statewide availability of services.
- Creates F.S. 790.664, which prohibits a person who has been adjudicated mentally defective or been committed to a mental institution from owning or possessing a firearm until certain relief is obtained by the person subject to the disability.
  - Specifies that the firearm possession and ownership disability runs concurrently with the firearm purchase disability, as provided by F.S. 790.065(2).
  - Authorizes and creates procedures for a person to petition for relief.
  - Permits a person to petition for simultaneous relief from the possession and purchase disability.
- Amends F.S. 790.065, by prohibiting the sale or transfer of a firearm to a person younger than 21 years of age by a licensed importer, licensed, manufacturer, or licensed dealer.
  - Provides criminal penalties (3<sup>rd</sup> Degree felony).
  - Permits the purchase or transfer of a rifle or shotgun to an underage individual if they are a law enforcement officer or correctional officer.
- Amends F.S. 790.0655, by revising the mandatory waiting period to the later of either 3 days, excluding weekends and legal holidays, or upon the completion of certain record checks.
  - Only applies to retail purchases.
  - Requires that records of firearm sales be available for inspection by any law enforcement agency during normal business hours.

- Waiting period does not apply to a purchase of a rifle or shotgun by an individual who successfully completes a 16 hour hunter safety course and possesses a hunter safety identification card.
- Creates F.S. 790.222, by prohibiting the import, transfer, distribution, sale, offer for sale, possession, or providing to another a bump-fire stock.
  - Defines “bump-fire stock” as a ‘conversion kit, a tool, an accessory, or a device used to alter the rate of fire of a firearm to mimic automatic weapon fire or which is used to increase the rate of fire to a faster rate that is possible for a person to fire such semiautomatic firearm unassisted by a kit, a tool, an accessory, or a device”.
  - A violation of this provision is a 3<sup>rd</sup> degree felony.
- Creates F.S. 790.401, by creating a process for obtaining a Risk Protection Order.
  - Bill permits a law enforcement officer or agency to petition a court for a risk protection order when an individual poses a significant danger of causing personal injury to himself or herself or others by having a firearm or any ammunition in his or her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition.
  - The Petition must allege that the respondent poses a significant danger of causing personal injury to himself or herself or others by having a firearm or any ammunition in his or her custody or control or by purchasing, possessing, or receiving a firearm or any ammunition, and must be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of significant dangerous acts by the respondent.
  - The Petition must also identify the quantities, types, and locations of all firearms the petitioner believes are in the respondent’s possession and whether there are any existing risk protection orders or restraining orders in place.
  - Petitioner must also make a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for a risk protection order or has already done so and must include referrals to appropriate resources, including mental health, domestic violence, and counseling resources.
  - Upon the filing of a petition, the court must hold a hearing on the matter on the day the petition is filed or on the next business day.
  - If the court finds that the criteria is met, the court must order that a temporary risk protection order be granted and schedule a final hearing within 14 days.
  - Upon the granting of a temporary order, the clerk of court shall furnish a copy of the notice of hearing, petition, and temporary order to the sheriff, who shall serve said documents with precedence over any other documents, with the exception of similar emergency orders.
  - The Bill also permits the chief judge of a circuit to authorize local law enforcement agencies to serve said documents.
  - After a final hearing, if the court determines that there is clear and convincing evidence to support that the respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition, the court must issue a risk

protection order for a period that it deems appropriate, up to and including but not exceeding 12 months.

- Upon the court granting either a temporary or final order, the respondent must surrender to local law enforcement all firearms and ammunition owned or in the respondent's custody and control, and any concealed weapons license in his/her possession. If the respondent fails to surrender said firearms, a law enforcement officer may seek a search warrant for the firearms that the officer has probable cause to believe are in the respondent's custody, control, or possession.
- At any time, after the issuance of an order, the respondent may file one request to vacate the order. Upon the filing of a request to vacate, the court must hold a hearing no earlier than 14 days or later than 30 days from the request. If the respondent demonstrates by clear and convincing evidence that he/she does not pose a significant danger of causing personal injury to himself/herself or others by having in his/her custody or control, purchasing, possessing, or receiving a firearm or ammunition, the court must vacate the order and all firearms in the custody of law enforcement must be returned.
- An extension of the order may be requested at any time within 30 days before the end of the order. Upon the filing of a request for extension, the court must hold a hearing within 14 days. If the court finds by clear and convincing evidence that the requirements for issuance of a risk protection order are still present, the court may extend the order for up to 12 months. Upon the extension of the order, the respondent may again, at any time, make one request to vacate.
- Once a risk protection order is vacated or ends without extension the law enforcement agency in possession of the respondent's firearms and ammunition must return the firearms and ammunition after confirming through a criminal background check that the respondent is eligible to own or possess firearms and confirming with the court that the risk protection order has been vacated or has ended without extension. The law enforcement agency must provide notice to any family or household members of the respondent before returning any surrendered firearms or ammunition.
- The Bill also provides penalties for making a false statement under oath and for possessing, purchasing, or receiving a firearm or ammunition with knowledge that they are prohibited from doing so. Both offenses are 3<sup>rd</sup> degree felonies.
- Additionally, the Bill exempts any person or entity from criminal or civil liability for any act or omission related to obtaining a risk protection order, with the exception of the criminal conduct described above or for failing to return firearms or ammunition when required to do so in accordance with the Act.
- Amends F.S. 836.10, by prohibiting a person from making, posting or transmitting a threat to conduct a mass shooting or an act of terrorism in a writing or other record in any manner that would allow another person to view the threat. (2<sup>nd</sup> degree felony).
- Creates F.S. 943.082 [School Safety Awareness Program], by requiring FDLE, in collaboration with the Department of Legal Affairs, to procure a mobile suspicious activity reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to

appropriate public safety agencies and school officials. As recommended by students of Marjory Stoneman Douglas High School, the program shall be named “FortifyFL.”

- Creates F.S. 943.687, which creates within FDLE the Marjory Stoneman Douglas High School Public Safety Commission. The commission shall investigate system failures in the Marjory Stoneman Douglas High School shooting and prior mass violence incidents in this state and develop recommendations for system improvements. At a minimum, the commission shall analyze information and evidence from the Marjory Stoneman Douglas High School shooting and other mass violence incidents in this state.
- Creates F.S. 1001.212, by creating the Office of Safe Schools within the Department of Education. The office is fully accountable to the Commissioner of Education. The office shall serve as a central repository for best practices, training standards, and compliance oversight in all matters regarding school safety and security, including prevention efforts, intervention efforts, and emergency preparedness planning.
  - The office shall:
    - establish and update as necessary a school security risk assessment tool for use by school districts and make the security risk assessment tool available for use by charter schools;
    - provide ongoing professional development opportunities to school district personnel;
    - provide a coordinated and interdisciplinary approach to providing technical assistance and guidance to school districts on safety and security and recommendations to address findings identified;
    - develop and implement a School Safety Specialist Training Program for appointed school safety specialists;
    - review and provide recommendations on the security risk assessments; and
    - coordinate with the Department of Law Enforcement to provide a centralized integrated data repository and data analytics resources to improve access to timely, complete and accurate information integrating data from, at a minimum, but not limited to, the following data sources by December 1, 2018: social media; Department of Children and Families; Department of Law Enforcement; Department of Juvenile Justice; and local law enforcement.
- Amends F.S. 1006.12, which requires each districts’ school board to partner with law enforcement agencies to establish or assign one or more safe-school officers at each school facility within the district by implementing any combination of the following options which best meets the needs of the school district:
  - establish school resource officer programs, through a cooperative agreement with law enforcement agencies;
  - commission one or more school safety officers for the protection and safety of school personnel, property, and students within the school district. The district school superintendent may recommend, and the district school board may appoint, one or more school safety officers; or

- at the school district's discretion, participate in the school marshal program if such program is established pursuant to F.S. 30.15, to meet the requirement of establishing a safe-school officer.
- Amends F.S. 1006.04, by revising the purpose and duties of the educational multiagency network for students with emotional and behavioral disabilities.
- Amends F.S. 1006.07, by revising district school board duties relating to student discipline and school safety.
  - Requires students to note referrals to mental health services upon initial registration for school within a school district.
  - Authorizes a district school board to refer a student to certain mental health services under certain circumstances.
  - Revises the student code of conduct relating to the referral of certain students to certain mental health services and law enforcement.
  - Revises the requirements of the student crime watch program by mandating that students and the community may anonymously relay information concerning unsafe and potentially harmful, dangerous, violent, or criminal activities, to appropriate public safety agencies and school officials.
  - Revising the policies and procedures to require that emergency drills include drills for active shooter and hostage situations, to be conducted at least as often as other emergency drills. Additionally, the amendment requires that the school district formulate their emergency policy and procedures in consultation with the appropriate public safety agencies.
  - Provides that Weapon-use, and hostage, and active shooter situations training for each school must engage the participation of the district school safety specialist, threat assessment team members, faculty, staff, and students and must be conducted by the law enforcement agency or agencies that are designated as first responders to the school's campus.
  - Requires that school districts establish a schedule to test emergency communication systems.
  - Requires that a school security risk assessment be conducted at each public school using the school security risk assessment tool developed by the Office of Safe Schools.
  - Requires each district school board to establish a threat assessment team at each school within the district.
  - Requires that each school safety specialist coordinate with the appropriate public safety agencies that are designated as first responders to a school's campus to conduct a tour of such campus once every 3 years and provide recommendations related to school safety. The recommendations by the public safety agencies must be considered as part of the recommendations by the school safety specialist.
- Amends F.S. 1006.08, by requiring a district school superintendent to be notified, within 48 hours, by the court when of a student is referred to mental health services.
- Amends F.S. 1006.12, by requiring district school boards to establish or assign one or more safe-school officers at each public school facility within the district.

- A safe school officer may, at the discretion of the school district, be a school resource officer assigned to the facility based on an agreement with a local law enforcement agency, a school board police officer, or a school marshal established in accordance with F.S. 30.15.
- Requires school resource officers and school safety officers to undergo criminal background checks, drug testing, and a psychological evaluation. Officers must also complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention.
- Amends F.S. 1006.13, by revising the policy of zero tolerance for crime and victimization.
  - Providing district school board responsibilities.
  - Authorizing a threat assessment team to use specified alternatives to expulsion or referral to law enforcement to address disruptive behavior.
  - Providing requirements for zero-tolerance policies.
  - Requiring a threat assessment team to consult with law enforcement under certain circumstances.
- Creates F.S. 1006.1493, by requiring the Department of Education to contract with a security consulting firm to develop, update, and implement a risk assessment tool.
  - Provides minimum requirements for the Florida Safe Schools Assessment Tool.
  - Requires an annual report to the Governor and Legislature by a specified date. The report must include a summary of the positive school safety measures in place at the time of the assessment and any recommendations for policy changes or funding needed to facilitate continued school safety planning, improvement, and response at the state, district, or school levels.
  - Providing that the security risk assessments and security information contained in the annual report are confidential and exempt from public disclosure.
- Amends F.S. 1011.62, by authorizing a district school board to use certain categorical appropriations to improve school safety.
  - Revises the safe schools allocation.
  - Creates a mental health assistance allocation.
  - Requires that funds be allocated annually in the General Appropriations Act.
  - Provides for the annual allocation of such funds on a specified basis.
  - Provides that eligible charter schools are entitled to a proportionate share.
  - Prohibits the use of allocated funds to supplant funds provided from other operating funds, to increase salaries, or to provide bonuses, except in certain circumstances.
  - Requires that school districts and schools maximize certain third-party funding.
  - Requires that school districts and charter schools annually develop and submit certain detailed plans.
  - Requires that approved charter school plans be provided to the district for submission to the commissioner.
  - Provides that required plans must include certain elements.
  - Requires school districts to annually submit approved plans to the Commissioner of Education by a specified date.

- Requires that entities receiving such allocations annually submit a final report on program outcomes and specific expenditures to the commissioner by a specified date.
- Creates F.S. 1012.584, by requiring the Department of Education to establish a youth mental health awareness and assistance training program for specified purposes.
  - Provides department and program requirements.
  - Requires certain school personnel to receive training.
  - Requires the school safety specialist to ensure certain personnel receive such training.
  - Requires school districts to inform such personnel of the mental health services available in the district.
  - Provides appropriations for specified purposes.
- Amends F.S. 1013.64, by specifying that the cost per student station does not include certain improvements related to enhanced safety and security.
- Reenacts F.S.S. 397.6760 (2) and 790.335(3)(e), regarding the confidentiality of court records and exceptions to the prohibition of registration of firearms, respectively, to incorporate the amendment made to Fla. Sta. § 790.065 in references thereto; providing appropriations.
  - Reenacts Fla. Stat. §§ 794.056 and 938.085, relating to the Rape Crisis Program Trust Fund and additional cost to fund rape crises centers, respectively, to incorporate the amendment made to Fla. Stat. § 836.10, providing appropriations, providing appropriations and providing effective dates

**Higher Education; (Known as the Florida Excellence in Higher Education Act of 2018) [Ch. 2018-4]**  
**Effective Date: Upon becoming law unless otherwise provided in the act**

Bill creates F.S. 1004.097 ["Campus Free Expression Act"], which addresses the issue of free speech on the campuses of public postsecondary institutions). Specifically, the Bill:

- Defines commercial speech, free speech zone, outdoor areas of campus, public institution of higher education, and material and substantial disruption.
- Provides examples of protected expressive activities, which does not include commercial speech.
- Authorizes a person to engage in an expressive activity in an outdoor area of campus freely, spontaneously, and contemporaneously as long as the person's conduct is lawful and does not materially and substantially disrupt the functioning of the public institution or infringe upon the rights of other individuals or organizations to engage in expressive activities.
- Specifies that the outdoor areas of campus are traditional public forums and authorizes a public institution to create and enforce restrictions that are reasonable and content-neutral on time, place, and manner of expression and that are narrowly tailored to a significant institutional interest. Any imposed restrictions must be clear and published and must provide for ample alternative means of expression.
- Specifies that a public institution may not designate any area of campus as a free-speech zone or otherwise create policies restricting expressive activities to a particular outdoor area of campus, except as authorized.
- Specifies that students, faculty, or staff of a public institution may not materially disrupt previously scheduled or reserved activities on campus occurring at the same time.
- Authorizes a person whose expressive rights are violated by an action prohibited under law to bring an action against a public institution in a court of competent jurisdiction to obtain declaratory and injunctive relief, reasonable court costs, and attorney fees.



**Controlled Substances; [Ch. 2018-13]**

**Effective Date: July 1, 2018**

Bill creates and amends various statutes which, in part, mandate that certain boards require certain registered practitioners to complete a specified board-approved continuing education course to obtain authorization to prescribe controlled substances as part of a biennial license renewal and requires applicable boards to adopt rules establishing certain guidelines for prescribing controlled substances for acute pain.

Bill prohibits pharmacists from dispensing controlled substances to persons not known to them without requiring the production of a valid photographic identification and authorizes a pharmacist to dispense controlled substances upon receipt of an electronic prescription if certain conditions are met.

Bill prohibits the dispensing of certain controlled substances in an amount that exceeds a 3-day supply or a medically necessary 7-day supply, if certain criteria are met.

Bill makes it a crime to possess, purchase, deliver, or sell a tableting machine, encapsulating machine, or controlled substance counterfeiting material for the purpose of illegally manufacturing controlled substances.

Bill also increases the level of offense from a third-degree felony to a second-degree felony for intentionally prescribing medically unnecessary controlled substances, or medically unnecessary amounts of controlled substances.

**Human Trafficking; [Ch. 2018-39]**

**Effective Date: October 1, 2018**

Bill removes the scheduled repeal of F.S. 943.0583 [Human Trafficking Victim Expunction]. The Statute defines that a criminal history record of a victim of human trafficking that has been ordered expunged is confidential and exempt from public disclosure. However, said record shall be made available to criminal justice agencies, governmental agencies authorized by state or federal law to determine the eligibility to purchase or possess firearms or to carry a concealed firearm, or by order of a court.

**Motor Vehicle Registration Applications; [Ch. 2018-42]**

**Effective Date: October 1, 2018**

Bill amends F.S. 320.02 [Application for Registration] by requiring that a motor vehicle registration application form include language allowing an applicant who is deaf or hard of hearing to voluntarily indicate that he or she is deaf or hard of hearing. If the applicant indicates on the application that he or she is deaf or hard of hearing, such information shall be included in the Driver and Vehicle Information Database [DAVID] and available through the Florida Crime Information Center system.

**Minimum Officer Qualifications; [Ch. 2018-46]**

**Effective Date: July 1, 2018**

Bill amends F.S. 943.13 [Officer's Minimum Qualifications for Employment] by permitting applicants from the requirement that they complete the basic recruit training program if:

- The applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time

sworn officer in another state or for the Federal Government for at least 1 year, provided there is no more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application for an exemption is submitted; or

- Served in the special operations forces for a minimum of 5 years, provided there is no more than a 4-year break from the applicant's special operations forces experience, as measured from the separation date from the special operations forces to the time a complete application for an exemption is submitted.

Bill also amends F.S. 943.131 [Temporary Employment or Appointment Minimum Basic Recruit Training Exemptions] by authorizing the Commission to require an exempt applicant to complete additional training as it deems appropriate based on the applicant's prior training and experience. Additionally, within 1 year after receiving an exemption, an applicant who is exempt from completing the commission-approved basic recruit training program must complete all additional required training as required by the Commission, demonstrate proficiency in the high-liability areas as defined by Commission rule, and obtain an acceptable score on the officer certification examination.

**Theft of Farm Animals; [Ch. 2018-49]**  
**Effective Date: October 1, 2018**

Bill amends F.S. 812.014 to include avian class animals to the category of commercially farmed animals. The Bill also increases the fine to \$10,000 [previously \$5000.00] for the theft of a commercially farmed animals, including equine, avian, bovine or swine class or other grazing animal, or a bee colony of a registered beekeeper.

**Alarm Confirmation; [Ch. 2018-51]**  
**Effective Date: July 1, 2018**

Bill amends F.S. 489.529 by requiring residential and commercial alarm monitoring companies to attempt to confirm the alarm signal by contacting the property owner or designee by call, text message, or other electronic before contacting a law enforcement agency. If the first contact attempt is unsuccessful, the monitoring company must make a second attempt before calling a law enforcement agency.

**Florida Driver's License and Identification Cards for Veterans; [Ch. 2018-80]**  
**Effective Date: July 1, 2018**

Bill amends F.S. 322.051 [ID cards] and F.S. 322.14 [driver's license] by placing the word "veteran" on the identification/driver's license upon proof that the individual is a veteran.

**Unlawful Detention by a Transient Occupant; [Ch. 2018-83]**  
**Effective Date: July 1, 2018**

Bill amends F.S. 82.045 by removing the factor regarding whether the person receives mail at the residence. The Bill also adds the factor of whether the person can produce documentation, correspondence, or identification cards sent or issued by a government agency, including, but not limited to, DHSMV or the supervisor of elections, which show that the person used the property address as an address of record with the agency within the previous 12 months. [Previously no time frame was contained in the Statute]

The Bill also clarifies that a transient occupancy terminates when a transient occupant begins to reside elsewhere, surrenders the key to the dwelling, or agrees to leave the dwelling when directed by a law

enforcement officer, the party entitled to possession, or a court. Furthermore, a transient occupancy is not extended by the presence of personal belongings of a former transient occupant.

Additionally, the Bill requires that the property owner or other person entitled to possession of the property permit the former transient occupant to recover his or her personal property at reasonable times and under reasonable conditions.

**Juvenile Justice/Prolific Juvenile Offenders; [Ch. 2018-86]**

**Effective Date: July 1, 2018**

Bill, in part, amends F.S. 985.26 [Length of Detention] by requiring that a prolific offender who is taken into custody for a violation of the conditions of their nonsecure detention must be held in secure detention until a detention hearing is held.

**Reports Concerning Seized or Forfeited Property; [Ch. 2018-92]**

**Effective Date: July 1, 2018**

Bill amends F.S. 932.7061 by changing the date the Florida Contraband Forfeiture Act annual reports are due to December 1. [Previously October 10]

**Subpoenas in Investigations of Sexual Offenses; [Ch. 2018-93]**

**Effective Date: October 1, 2018**

Bill creates F.S. 934.255, which authorizes an investigative or law enforcement officer conducting an investigation into specified matters to subpoena certain persons or entities for the production of records, documents, or other tangible things and testimony and authorizing a court to punish a person who does not comply with a subpoena as indirect criminal contempt.

**Exploitation of a Vulnerable Adult; [Ch. 2018-100]**

**Effective Date: July 1, 2018**

Bill creates F.S. 825.1035 by creating an Injunction for Protection of a Vulnerable Adult. This cause of action may be sought in an adversary proceeding by: a vulnerable adult in imminent danger of being exploited; the guardian of a vulnerable adult in imminent danger of being exploited; a person or organization acting on behalf of the vulnerable adult with the consent of the vulnerable adult or his or her guardian; a person who simultaneously files a petition for determination of incapacity and appointment of an emergency temporary guardian with respect to the vulnerable adult.

**Expunction of Criminal History Records; [Ch. 2018-101]**

**Effective Date: October 1, 2018**

Bill amends F.S. 943.0585 by including a dismissal by a court, or a judgment of acquittal rendered by a judge, or a verdict of not guilty rendered by a judge or jury as circumstances when an expunction may be sought. Bill also amends F.S. 943.059 excluding the possibility of a sealing of criminal history records when the record relates to certain specified offenses for adults and minors.

**Sexual Offenders and Predators; [Ch. 2018-105]**

**Effective Date: July 1, 2018**

Bill amends the Florida Sexual Predators Act by reducing the aggregate and consecutive number of days used to determine residency for purposes of sexual predator or sexual offender registration. The bill also provides for a mandatory sentence of community control with electronic monitoring for certain offenses committed by sexual predators & sexual offenders, if court does not impose prison sentence.

**Workers' Compensation Benefits for First Responders; [Ch. 2018-124]**

**Effective Date: October 1, 2018**

Bill amends F.S. 112.1815 by including a post-traumatic stress disorder suffered by a first responder as compensable by worker's compensation benefits. For the disorder to be compensable the disorder must have occurred while the first responder was acting within the course of his or her employment and the disorder must be the result of one of the following events: seeing for oneself a deceased minor; directly witnessing the death of a minor; directly witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department; participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department; manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department; seeing for oneself a decedent whose death involved grievous bodily harm of a nature that shocks the conscience; directly witnessing a death, including suicide, that involved grievous bodily harm of a nature that shocks the conscience; directly witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing as defined in 28 U.S.C. s. 530C, manslaughter, self-defense, misadventure, and negligence; directly witnessing an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; or manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

It should be noted that the Bill does not change the burden of proof; which remains clear and convincing.

**Criminal Justice; [Ch. 2018-127]**

**Effective Date: July 1, 2018**

Bill requires the Department of Corrections to include information in its annual report on inmate admission based on offense type and recidivism rate.

Bill creates F.S. 901.41, which encourages local communities and public or private educational institutions to implement pre-arrest diversion programs for certain adult offenders and provides a model Prearrest Diversion program.

Bill amends F.S. 907.043, by requiring each pretrial release program to include in its annual report the types of criminal charges of defendants accepted into a pretrial release program, the number of defendants accepted into a pretrial release program who paid a bail or bond, the number of defendants accepted into a pretrial release program with no prior criminal conviction, and the number of defendants for whom a pretrial risk assessment tool was used or not.

Bill amends F.S. 943.0582, by requiring FDLE to adopt rules for the expunction of a nonjudicial record of the arrest of a minor who has successfully completed a diversion program for a misdemeanor offense.

Bill amends F.S. 985.12 [Juvenile Civil Citation], by requiring that a civil citation or similar prearrest diversion program for misdemeanor offenses be established in each judicial circuit in the state. The diversion program shall be created by the state attorney, public defender, clerk of the court, and representatives of participating law enforcement agencies in the circuit; who shall be tasked with developing the programs policies and procedures. The Bill also provides that input from other interested stakeholders may be solicited regarding the appropriate policies and procedures. Additionally, the program must specify the misdemeanor offenses that qualify a juvenile for participation, the eligibility criteria for the program; the program's implementation and operation; the program's requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and a program fee, if any, to be paid by a juvenile participating in the program. If a program fee is imposed, the clerk of the court must receive a reasonable portion of the fee. Lastly, the state attorney shall operate the civil citation or similar prearrest diversion program. This provision does not prohibit a law enforcement agency, county, municipality, or a private or public educational institution from operating a similar diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney and is determined that the independent program is substantially similar to the civil citation or similar prearrest diversion program developed by the circuit.

Lastly, the Bill creates F.S. 985.126, which, in part, permits a minor who successfully completes a diversion program for a first time misdemeanor offense to lawfully deny or fail to acknowledge their participation in the program and seek an expunction of the nonjudicial arrest record under F.S. 943.0582, unless the inquiry is made by a criminal justice agency for the purpose of determining eligibility for a diversion program, a criminal investigation, or making a prosecutorial decision.

### **Written Threats to Conduct Mass Shootings or Acts of Terrorism; [Ch. 2018-128]**

**Effective Date: July 1, 2018**

Bill Amends F.S. 836.10 by prohibiting a person from making, posting or transmitting a threat to conduct a mass shooting or an act of terrorism in a writing or other record in any manner that would allow another person to view the threat. (2<sup>nd</sup> Degree felony)

### **Motor Vehicles; [Ch. 2018-130]**

**Effective Date: July 1, 2018**

Bill amends F.S. 316.003 by defining a "mobile carrier" and "autocycle".

Bill amends F.S. 316.614 to require safety belt usage for operators and passengers of an autocycle.

Bill amends F.S. 322.03(4) and F.S. 322.12(5) by clarifying that a licensed driver (Class E driver license or above) may operate an autocycle without a motorcycle endorsement.

Bill creates F.S. 334.352, which generally prohibits local governmental entities from preventing motor vehicle use or access to an existing transportation facility or corridor if such facility or corridor is the only point, or one of only two points, of ingress to and egress from a state university. However, a law enforcement agency may prevent access to a facility or corridor in an emergency situation or due to a temporary closure for road maintenance or repair.

Bill also authorizes a mobile carrier to be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law and is not required to satisfy certain registration and insurance requirements. Additionally, the Bill requires that a safety belt or, if applicable, child restraint be used by an operator or passenger of an autocycle and that an autocycle may be operated without a motorcycle endorsement.

**Airboat Regulation; “Ellie’s Law”; [Ch. 2018-137]**

**Effective Date: Upon becoming law**

Bill, beginning on July 1, 2018 prohibits a person from operating an airboat for the purpose of carrying passengers for hire on waters of the state unless the operator has specified documents onboard the airboat, including a photographic identification card; proof of completion of a boating safety education course, proof of successful completion of a commission approved airboat operator course that meets the minimum standards established by the Fish and Wildlife Conservation Commission rule; and proof of successful course completion in cardiopulmonary resuscitation and first aid. A person issued a captain’s license by the United States Coast Guard is not required to complete the boating safety education course. However, proof of a captain’s license is required to be onboard the airboat when carrying passengers for hire on waters of the state. A person who violates these airboat operating provisions commits a second degree misdemeanor, punishable by up to 60 days imprisonment or a \$500 fine. The bill also requires the Fish and Wildlife Conservation Commission to adopt rules to implement the airboat operating requirements no later than October 1, 2018.

**Sale of Firearms; [Ch. 2018-144]**

**Effective Date: October 1, 2018**

Bill amends F.S. 790.065 by requiring FDLE to accept payment of the background check fees by electronic means, including, but not limited to, debit cards, credit cards, or electronic funds transfers.

**HB 141 – Transportation; [Ch. 2018-145]**

**Effective Date: July 1, 2018**

Bill amends F.S. 338.155 by exempting a law enforcement officer operating an official vehicle from paying tolls when on official business. [Previously the exemption only applied to marked official vehicle]

Bill also exempts a person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty from toll requirements.

**Trespass on Airport Property; [Ch. 2018-151]**

**Effective Date: October 1, 2018**

Bill amends F.S. 810.09 [Trespass] by creating a third degree felony for trespassing with the intent to injure another person, damage property, or impede the operation or use of an aircraft, runway, taxiway, ramp, or apron area, and the property trespassed upon is the operational area of an airport that is legally posted and identified in substantially the following manner:

“THIS AREA IS A DESIGNATED OPERATIONAL AREA OF AN AIRPORT AND ANYONE WHO TRESPASSES ON THIS PROPERTY COMMITS A FELONY.”

An “operational area of an airport” means any portion of an airport to which access by the public is prohibited by fences or appropriate signs and includes runways, taxiways, ramps, apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of an airport used or intended to be used for landing, takeoff, or surface maneuvering of aircraft.

## **PUBLIC RECORDS BILLS**

### **Public Meetings/School Safety; [Ch. 2018-1]**

#### **Effective Date: Same date as the MSDHS Public Safety Act**

Bill amends F.S. 943.082 [School Safety Awareness Program] by declaring the identity of the reporting party received through the mobile suspicious activity reporting tool and held by the FDLE, law enforcement agencies, or school officials is confidential and exempt from public disclosure. Additionally, any other information received through the mobile suspicious activity reporting tool and held by the FDLE, law enforcement agencies, or school officials is exempt from public disclosure.

Bill amends F.S. 943.687 [MSDHSPS Commission] by declaring that any information discussed during a commission meeting is exempt from public disclosure.

Bill amends F.S. 1006.12 [Safe School Officers] by declaring that any information that would identify whether a particular individual has been appointed as a safe-school officer held by a law enforcement agency, school district, or charter school is exempt from public disclosure.

This provision shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

### **Victim of an Incident of Mass Violence; [Ch. 2018-2]**

#### **Effective Date: Upon becoming law**

Bill amends F.S. 119.071(2) [Agency Investigations] by declaring that the address of a victim of an incident of mass violence is exempt from public disclosure. An “incident of mass violence” is defined as an incident in which four or more people, not including the perpetrator, are severely injured or killed by an intentional and indiscriminate act of violence of another. A “victim” is defined as a person killed or injured during an incident of mass violence, not including the perpetrator.

This provision shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

### **Addiction Treatment Facility Personnel; [Ch. 2018-64]**

#### **Effective Date: July 1, 2018**

Bill amends F.S. 119.071 by identifying the home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility and the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel, and the names and locations of schools and day care facilities attended by the children of such personnel as exempt from public disclosure.

This Bill shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

**Firesafety Systems; [Ch. 2018-146]**  
**Effective Date: Upon becoming law**

Bill exempts from public disclosure firesafety system plans. The definition of firesafety system plans tracks security system plans, to include manuals for firesafety personnel or firesafety training, a firesafety system plan, or any documents relating directly to or revealing a firesafety system.

**Child Advocacy Center Personnel and Child Protection Team Members; [Ch. 2018-147]**  
**Effective Date: July 1, 2018**

Bill amends F.S. 119.071 by defining as exempt from public disclosure the home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meet certain standards and screening requirements, and the members of a child protection team, whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team. Bill also defines as exempt from public disclosure the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members.

This provision shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.